

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**SAFEGUARD LABS, LLC**

Plaintiff

v.

**MASH ENTERPRISE, LLC**

Defendant

**Case No. 1:25-cv-02456-ELR**

**JURY TRIAL DEMANDED**

**SAFEGUARD LABS, LLC’S ANSWER  
TO COUNTER-PLAINTIFF’S COUNTERCLAIM**

Safeguard Labs, LLC (“Safeguard”) admits that MASH Enterprise, LLC (“MASH”) has filed a counterclaim in this case in its Original Answer and Counterclaim (Dkt. 13) in the above-captioned matter.

**COUNTERCLAIM**

1. Admit that the chain of title for the mark in question includes an assignment from PhD Marketing, Inc. Admit that the referenced application filed in April 2021 speaks for itself and that one excerpt from that application was accurately quoted. Otherwise, deny.

2. Admit that the referenced application filed in June 2021 speaks for itself and that one excerpt from that application was accurately quoted. Otherwise, deny.

3. Deny.

4. Deny.

5. Admit that MASH sells and/or has sold competing products in the novelty synthetic urine market. Safeguard lacks sufficient information to admit or deny the remaining allegations and therefore denies them.

6. The allegation calls for a legal conclusion as to the proper interpretation and application of the law under the Lanham Act as to cancellation proceedings. To that extent, deny. Additionally, Safeguard denies the factual allegations.

7. Deny.

8. Admit.

9. Admit that a federal court, under appropriate circumstances, has authority to act under 15 U.S.C. § 1119. Denied that MASH has standing to assert the counterclaim or that it is entitled to any relief whatsoever.

### **AFFIRMATIVE DEFENSES**

MASH's counterclaim (the "counterclaim") is barred in whole or in part by the following affirmative defenses and doctrines:

1. **Failure to State a Claim:** The counterclaim fails to state a claim upon which relief can be granted.
2. **Lack of Standing / Outside Zone of Interests:** The counterclaimant lacks standing because it is not within the zone of interests protected by the Lanham

Act and has not sufficiently alleged a real or substantial commercial injury proximately caused by the registration at issue.

3. **No Likelihood of Confusion:** The registered mark is not likely to cause confusion with any mark, trade name, or commercial identity of the counterclaimant.
4. **Priority of Use:** Counter-defendant has priority of use of the mark in United States commerce over the counterclaimant and is thus entitled to maintain the federal registration.
5. **Acquiescence / Waiver / Estoppel:** The counterclaim is barred in whole or in part by the doctrines of acquiescence, waiver, and/or estoppel due to the counterclaimant's knowledge of and inaction toward the registered mark for an extended period.
6. **Laches:** The counterclaim is barred by the doctrine of laches due to the counterclaimant's unreasonable delay in asserting its claim, resulting in prejudice to counter-defendant.
7. **Acquired Distinctiveness / Secondary Meaning:** To the extent the counterclaim challenges the mark as merely descriptive, the mark has acquired distinctiveness and secondary meaning through long and exclusive use in commerce.

8. **Unclean Hands:** The counterclaimant's claim is barred, in whole or in part, by the doctrine of unclean hands due to its own wrongful, misleading, or inequitable conduct in connection with the subject matter of the counterclaim.

**PRAYER FOR RELIEF**

Safeguard Labs denies that MASH is entitled to any relief whatsoever.

Respectfully submitted,

*/s/ David Skeels*

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**ATTORNEYS FOR  
PLAINTIFF/COUNTERCLAIM  
DEFENDANT**

**SAFEGUARD LABS, LLC**

**Certificate of Service**

I certify that the Plaintiff/Counter Defendant's Original Answer was electronically filed this 30th day of July 2025 with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all attorneys of record.

*/s/ David Skeels*